

their unborn children. These violent acts went unprosecuted and unpunished. For the sake of these women and their unborn children, Congress must correct this oversight in Federal law and pass the Unborn Victims of Violence Act. It is pro-woman, pro-child, and anti-criminal.

This bill and its goal seem pretty straightforward. How could anyone oppose it? After all, every Member of this body wants to protect women and children, and punish criminals. Well, Mr. Speaker, it appears that we have a simple misunderstanding about what this bill actually does and I want to take a moment to set the record straight.

Some of my colleagues are concerned that The Unborn Victims of Violence Act prevents women from obtaining a legal abortion. This assertion is simply not true. The Unborn Victims legislation specifically prohibits the prosecution of women who terminate their pregnancies through abortion. While I am pro-Life and therefore very much opposed to abortion, I want to make it clear that this legislation has absolutely no impact on a woman's legal ability to terminate her pregnancy. This is not an abortion bill. It is a crime bill.

Others in this body are concerned that the act undermines the *Roe v. Wade* decision by recognizing unborn children as having rights outside of the mother. In fact, the Unborn Victims of Violence Act has zero impact on *Roe v. Wade*, because the Supreme Court has stated that unborn children already have legal rights outside the mother, specifically in tort and inheritance cases, and these rights do not preclude a woman from obtaining an abortion. This is not a bill which restricts abortion. It is a bill that punishes criminals who commit brutal acts of violence against women and their children.

Finally, we have heard from some who honestly believe that this act is somehow antiwoman. Mr. Speaker, the Unborn Victims of Violence Act not only reinforces existing laws which protect women against violence, but also ensures that the horrible emotional and physical anguish a pregnant woman would suffer from the death of her unborn child would not go unpunished due to a loophole in the law. It is hard for me to find any legislation which is more pro-woman than this.

In conclusion, Mr. Speaker, I urge my colleagues to support this important pro-woman, pro-child and anticriminal legislation, and vote in favor of the Unborn Victims of Violence Act.

Mr. TERRY. Mr. Speaker, I submit to the CONGRESSIONAL RECORD, and commend to my colleagues, the following document from the National Right to Life Committee. It provides important details on H.R. 503, the Unborn Victims of Violence Act.

KEY POINTS ON THE UNBORN VICTIMS OF VIOLENCE ACT

The Unborn Victims of Violence Act has been introduced in companion bills as H.R. 503, sponsored by Congressman Lindsey Graham (R-SC), and S. 480, sponsored by Senator Mike DeWine (R-Ohio). The full text is available at the NRLC website at www.nrlc.org/Unborn_Victims/index.html.

The Unborn Victims of Violence Act would establish that if an unborn child is injured or killed during the commission of an already-defined federal crime of violence, then the assailant may be charged with a second offense on behalf of the second victim, the unborn child. The bill would recognize that when a criminal attacks a pregnant woman,

and injures or kills her unborn child, he has claimed two human victims. The bill would apply this two-victim principle to about 70 existing federal laws dealing with acts of violence. These laws affect federal geographical jurisdictions, the military justice system, protection of federal officials, and specific acts defined by law as federal crimes (such as certain terrorist bombings).

In current federal criminal law, an unborn child is not recognized as a victim with respect to violent crimes. Thus, for example, if a criminal beats a woman on a military base, and kills her unborn child, he can be charged only with the battery against the woman, because the unborn child's loss of life is not recognized by the law. This gap in federal law results in grave injustices, some real-world examples of which were described by former Congressman Charles Canady (R-FL.) at a July 21, 1999 House Judiciary Constitution Subcommittee hearing on the issue. Congressman Canady's statement is posted at <http://nrlc.org/news/1999/NRL899/cana.html>.

Twenty-four (24) states have already enacted laws which recognize unborn children as human victims of violent crimes. Eleven (11) of these states provide this protection throughout the period of in utero development, while the other 13 provide protection during specific stages of development. For detailed information on state unborn victims laws, see "State Homicide Laws That Recognize Unborn Victims," available at www.nrlc.org/Whatsnew/sthomicidelaws.htm. The Unborn Victims of Violence Act would not supersede state unborn victims laws, nor would it impose such a law in a state that has not enacted one. Rather, the bill applies only to unborn children injured or killed during the course of already-defined federal crimes of violence.

The bill explicitly provides that it does not apply to any abortion to which a woman has consented, to any act of the mother herself (legal or illegal), or to any form of medical treatment. Nevertheless, NRLC supports the bill because it achieves other pro-life purposes that are worthwhile in their own right: the protection of unborn children from acts of violence other than abortion, the recognition that unborn children may be victims of such violent criminal acts, and the punishment of those who harm unborn children while engaged in federally prohibited acts of violence.

It is well established that this type of legislation does not conflict with the Supreme Court's pro-abortion decrees (*Roe v. Wade*, etc.). Criminal defendants have brought many legal challenges to the state unborn victim laws mentioned above, based on *Roe* and other constitutional arguments, but all such challenges have been rejected by the courts. (A list of pertinent court decisions is available on request.)

Moreover, in the 1989 case of *Webster v. Reproductive Health Services*, the U.S. Supreme Court refused to invalidate a Missouri statute that declares that "the life of each human being begins at conception," that "unborn children have protectable interests in life, health, and well-being," and that all state laws "shall be interpreted and construed to acknowledge on behalf of the unborn child at every stage of development, all the rights, privileges, and immunities available to other persons, citizens, and residents of this state," to the extent permitted by the Constitution and U.S. Supreme Court rulings. A lower court had held that Missouri's law "impermissibl[y]" adopted "a theory of when life begins," but the Supreme Court nullified this ruling, and held that a state is free to enact laws that recognize unborn children, so long as the state does not include restrictions on abortion that *Roe* for-

bids. The Minnesota Supreme Court took the same view in upholding the Minnesota law: "*Roe v. Wade* . . . does not protect, much less confer on an assailant, a third-party unilateral right to destroy the fetus." [State v. Merrill, 450 N.W.2d 318 (Minn. 1990)].

Some opponents have objected to the bill's recognition of the "child in utero" as a member of the human family who can be harmed in a crime. Yet, on July 25, 2000, the House passed on a vote of 417-0 a bill that contained the same definition of "child in utero" and that embodied the same basic legal principle. That bill, the Innocent Child Protection Act, said that no state or federal authority may "carry out a sentence of death on a woman while she carries a child in utero. . . . 'child in utero' means a member of the species *homo sapiens*, at any stage of development, who is carried in the womb." The principle embodied in the Innocent Child Protection Act was obvious. Whatever one's position regarding the morality of capital punishment as such, there is only one rational reason for delaying a lawfully ordered execution of a woman because she is pregnant—that is, carrying out the execution would take two human lives, not just one. The Unborn Victims of Violence Act would extend that same principle to the rest of the federal criminal code, recognizing that when a criminal attacks a woman, injuring or killing her and injuring or killing her unborn child, he has claimed two victims.

The Unborn Victims of Violence Act has come under vehement attack from pro-abortion groups such as NARAL, Planned Parenthood, and the ACLU. Even though the bill deals with acts of violence other than abortion, the pro-abortion lobby's ideology apparently compels it to deny the very existence of unborn human beings in any area of the law. Thus, during the 106th Congress, pro-abortion lawmakers proposed alternative legislation, the "Motherhood Protection Act" or Lofgren substitute amendment, which the House of Representatives rejected on September 30, 1999. This "one-victim" proposal did not mention the unborn child (by whatever name), but instead defined as an offense "interruption to the normal course of the pregnancy." This approach would have codified a falsehood—the notion that there is only one victim in these crimes. In the real world, however, when an unborn child loses her life in a criminal attack, the parents and society mourn the death of a separate individual, rather than viewing it simply as an additional injury to the mother.

Moreover, arguments in favor of the one-victim proposal are internally inconsistent and illogical. Supporters of the one-victim approach insist that when a criminal injures a mother and kills her unborn child, there has been only a compound injury to the mother but no loss of any human life—yet, the Lofgren Amendment would have imposed a penalty (up to life in prison) commensurate with loss of human life. Also, advocates of the one-victim approach argue that when a criminal assailant kills a pregnant woman, the assailant should receive double punishment: once for killing the mother and then again for depriving her of her "pregnancy"—but if there is only one victim, it is difficult to see why this would not be a duplicative criminal charge, since legally speaking a woman who has been murdered cannot herself suffer an additional "loss."

Some opponents of the bill have charged that the bill would punish harm to the unborn child "utterly ignoring the harm to the pregnant woman." Others have charged that the bill would "separate the mother from her fetus." These objections reflect misunderstandings or misrepresentations of how the bill is structured. In reality, the bill would